ShawPittman LLP

A Limited Liability Partnership Including Professional Corporations

October 9, 2003

By Regular Mail

D.C. Zoning Commission
441 4th Street, N.W.
Second Floor
Washington, DC 20001
Attn: Alberto Bastida

D.C. ZONING COMMISSION
2003 OCT 10 PM 3:52

Re: Zoning Commission Case No. 02-50
St. Luke's Condominium, LLC (Square 1935, Lot 815)
Executed Memorandum of Understanding With the Office of Local Business Development

Dear Mr. Bastida:

Enclosed please find a fully executed copy of the Memorandum of Understanding that has been signed by St. Luke's Condominium, LLC (the **"Applicant"**) and the Office of Local Business Development. Please contact me if you have any additional questions or comments.

Sincerely,

Paul Tummonds

Document #: 1356002 v.1

ZONING COMMISSION
District of Columbia
Case 02-50
Exhibit 50

2300 N Street, NW Washington, DC 20037-1128 | 202.663.8000 Fax: 202.663.8007 | www.shawpittman.com

Washington, DC
Northern Virginia
New York
Los Angeles
London

ZONING COMMISSION
District of Columbia
CASE NO.02-50
EXHIBIT NO.50

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT

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MEMORANDUM OF UNDERSTANDING

St. Luke's Condominium, LLC, (the "**Developer**"), in accordance with **D.C. Law 1-95 (as amended), D.C. Code Section 2-215.03 et seq. (2001 Ed.),** the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises, and in consideration of the District of Columbia Government in approval of a consolidated Planned Unit Development, and corresponding Map Amendment **("PUD")** known as D.C. Zoning Commission Case No. 02-50; to construct a 44 high quality multi–family residential units and 104 parking spaces, located at the intersection of Wisconsin Avenue and Calvert Streets, N.W. adjacent to the Saint Luke's Methodist Church, (the "**PUD site**"), in Square 1935, Lots 815 **(the "PUD"),** does hereby commit to make a bona fide effort to utilize Local, Small and Disadvantaged Business Enterprises certified by the D.C. Local Business Opportunity Commission ("**LSDBEs**") in order to achieve, at a minimum, the goal of thirty-five percent **(35%)** LSDBEs participation in St. Luke's Condominium, LLC's Adjusted Development Budget of **$13.1 million** (the "35% Goal"). The 35% Goal in the amount of **$4.6 million** is to be achieved in the contracted development costs in connection with the design, development, construction (including, but not limited to, pre-construction activities), maintenance and security for the project being created as result of the PUD (the "**Project**"), including janitorial, refuse collection, provision of supplies and other similar post-construction activities relating to the Project, in accordance with the following provisions.

A. **The Developer** shall utilize the resources of the Office of Local Business Development ("**OLBD**"), including the Local Business Opportunity Commission's Directory of Certified Local Small and Disadvantaged Business Enterprises, and periodic updates, as the primary referral sources for LSDBEs. The primary contact for such referrals shall be the Director of the Office of Local Business Development (the "**Director**").

B. The appropriate representatives of **the Developer** who negotiate, sign and are responsible for the implementation of the Memorandum of Understanding with the **OLBD** agree to meet with **OLBD** officials to explore and develop ways for achieving the 35% Goal.

C. **The Developer** agrees to make a continuing bona fide effort to utilize LSDBEs for certain goods and services as may be required by **the Developer** to conduct its daily operations and understands that such efforts will accrue toward the 35% Goal.

D. Not later than **(45)** days following the approval of the consolidated Planned Unit Development **(PUD), the Developer** agrees to submit a local business plan **(Attachment A)** to **OLBD** for approval, which plan shall be incorporated in and made a part of this Agreement.

E. Not later than thirty **(30)** days following the filing of an application for a building permit pursuant to the approved PUD, **the Developer** will submit to **OLBD** a more extensive plan listing all of the projected procurement items, quantities and estimated costs, bid opening and closing dates, and start-up and completion dates. This plan should indicate whether any items will be bid without restriction in the open market, or limited to LSDBEs certified by the Local Business Opportunity Commission.

F. The parties hereto understand and agree that the means of achieving the 35% Goal may vary according to the types of goods and services contracted for and the current availability of Certified LSDBEs. However, **the Developer** agrees to make a bona fide effort to achieve, at a minimum, the 35% Goal over the life of the project.

G. **The Developer** further agrees to submit quarterly LSDBE contracting and subcontracting reports to **OLBD** no later than fifteen (15) days after the end of each calendar quarter; the quarterly report periods shall begin on **January 1, April 1, July 1, and October 1.** The quarterly report shall be submitted on a form provided by **OLBD (Attachment B).** These reports should include detailed documentation of outreach efforts to LSDBEs in order to determine bona fide efforts.

H. **The Developer** agrees to meet quarterly with **OLBD** staff on a mutually agreeable schedule to discuss LSDBE'S participation on the project.

I. In the event that there are no LSDBEs in the District of Columbia which manufacture, construct, distribute, install, or otherwise supply the goods and services required to develop, construct, renovate and/or maintain the Project, **the Developer** agrees to make bona fide efforts to achieve the 35% Goal through a broad scale approach to contracts with other local business enterprises certified by the District.

J. **The Developer** further agrees to include in the terms of its contractual agreements with the general/prime contractor and/or construction manager (in any of such events, the "Contractor"), language which puts the Contractor on notice that the Contractor is expected to make a bona fide effort to achieve the 35% Goal in (1) its own contracting with respect to the Project and (2) engaging subcontractors to perform work on the Project.

K. **The Developer** will publish, in a timely manner, a public notice in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, to inform the business community as a whole of the overall project, including a general description of projected phases and anticipated time tables.

L. For purposes of this agreement, it is agreed that bona fide effort means that **the Developer** will obtain the following commitments from its General Contractor **("GC"):**

1. The GC will publish a public notice in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, designed to inform the business community as a whole of specific contracting and subcontracting procurement opportunities.

2. The GC will publish public notices in a newspaper of general circulation in the District of Columbia and in one or more other newspapers serving the District of Columbia local business community, soliciting bids for products or services being sought, and will allow a reasonable time for all bidders to respond to invitations/requests for bids.

3. The GC will contact **OLBD** to obtain a current listing of all LSDBEs qualified to bid on major procurement as they arise.

4. The GC will negotiate with all bidders pre-qualified by **the Developer** and the GC, including LSDBEs, to obtain each bidder's best and final price as understood in the marketplace.

5. The GC will not require that LSDBEs provide bonding on contracts with a dollar value less than **$100,000,** provided that in lieu of bonding the GC may accept a job specific certificate of insurance.

6. The GC will design and include in all contracts and subcontracts a process for dispute settlement. This process shall incorporate an opportunity for the presentation of documentation involving the work performed and invoices regarding requests for payments. Included in the contract shall be a mutually agreed upon mediator or provisions for **arbitration** in accordance with the rules of the **American Arbitration Association.**

7. The GC and subcontractors shall strictly adhere to their contractual obligations to pay all subcontractors in accordance with the contractually agreed upon schedule for payments. In the event that there is a delay in payment to the general contractor, he is to immediately notify the subcontractor and advise as to the date on which payment can be expected.

8. The GC commits to pay all subcontractors, including LSDBEs, within fifteen **(15)** days following the GC's receipt of a payment, which includes funds for such subcontractors, from **the Developer**. **The Developer** agrees to require the project manager to establish a procedure for giving notice to the subcontractors of **the Developer's** payments to the GC.

M. In order to encourage **the Developer** to develop creative, cost competitive ways in which to meet its 35% Goal, **OLBD** will give credit negotiated by the parties for the opening up of opportunities in areas not traditionally provided to LSDBEs and/or expansion of opportunities in existing areas.

N. If at the end of the first calendar quarter following the issuance of a building permit, **the Developer** is unable to comply with the proposed LSDBE utilization plan for the Project, representatives of **the Developer** and the Director of **OLBD** shall confer with a view toward adjusting goals and strategies to extend the time of performance based on facts and circumstances.

DATE THIS 3rd **DAY OF** October **, 2003**

OFFICE OF LOCAL BUSINESS DEVELOPMENT

BY: _____
JACQUELYN A. FLOWERS
DIRECTOR

ST. LUKE'S CONDOMINIUMS, LLC

BY: _____
JOHN WOOD BOLTON, JR.
MEMBER
St. Luke's Condominium, LLC

Maa/St. LC,llc/PUD/0908'03****

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT



ATTACHMENT A

CONTRACTING AND SUB-CONTRACTING PLAN

IRB CLIENT/PRIVATE DEVELOPER: _____

_____

ADDRESS: _____

_____

TELEPHONE: _____ **FAX:** _____

TOTAL ESTIMATED CONTRACT AMOUNT: $_____

TOTAL ESTIMATED AMOUNT TO BE SUB-CONTRACTED $_____

TOTAL ESTIMATED LSDBE PARTICIPATION $_____

PERCENTAGE OF LSDBE CONTRACT AMOUNT (%)_____

NAME OF LSDBE LIAISON: _____

ADDRESS: _____

TELEPHONE: _____ **FAX:** _____

NAME OF GENERAL/PRIME CONTRACTOR AND/OR CONSTRUCTION MANAGER: _____

ADDRESS: _____

_____

TELEPHONE: _____ **FAX:** _____

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMRNT

ATTACHMENT B

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECT
QUARTERLY LOCAL, SMALL AND DISADVANTAGE BUSINESS ENTERPRISES EXPENDITURE REPORT FORM

QUARTER: _____, 2003 DATE PREPARED: _____

PROJECT NAME: _____

ADDRESS: _____

PROJECT CONTACT: _____ TELEPHONE: _____ FAX: _____

ANTICIPATED PROJECT COMPLETION DATE: _____

PART A. EXPENDITURE SUMMARY

QUARTER	TOTAL AMT. EXPENDED TO DATE	TOTAL AMOUNT EXPENDED WITH LSDBES TO DATE	LSDBES (%) OF EXPENDED AMT. TO DATE	TOTAL AMOUNT EXPENDED THIS QUARTER	TOTAL AMOUNT EXP. W/LSDBES THIS QUARTER	LSDBES (%) PERCENTAGE THIS QUARETR
1						
2						
3						
4						
TOTAL						

PART B. LOCAL, SMALL AND DISADVANTAGE BUSINESS ENTERPRISE EXPEDITURE VERIFICATION

NAME OF LOCAL, SMALL AND DISADVANTAGE BUS. ENTERPRISE	LSDBE CERT. NUMBER	DATE OF AWARD	DATE OF PAYMENT.	DESCRIPTION OF GOODS/SERVICES	AMOUNT OF EXPENDITURE

OFFICE OF LOCAL BUSINESS DEVELOPMENT

LSDBE PRIME/SUBCONTRACT REPORTING FORM

Project Name: _____

Name _____ **Title** _____ **Phone Number** _____

Name of LSDBE and Certification Number	Type of Service/Work	Contract Award Amount And Contract Number	Date of Award	Payment Amount	Payment Date

Form OLBD/CE 2

OFFICE OF LOCAL BUSINESS DEVELOPMENT

LSDBE CONTACT DOCUMENTATION FORM

Project Name: _____

Name and Title _____

LSDBE Name/Certification Number	Person Contacted/Date	Telephone/Fax Number and/or E-mail Address	Type of Work	Response

Form OLBD/CE 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF LOCAL BUSINESS DEVELOPMENT



ATTACHMENT C

INDUSTRIAL REVENUE BOND AND PRIVATE DEVELOPMENT PROJECTS

AREAS OF PROCUREMENT IN WHICH LSDBE UTILIZATION GOAL CAN BE ACHIEVED

Accounting Services
Advertising and Graphic Design
Antenna Systems
Architectural and Engineering Services
Audio/Visual Equipment
Bank/Financial Institutional Depository
Boiler Maintenance & Supplies
Bond/Computer Paper
Bottled Water Service
Building Supplies
Building/Facility Management Services
Cable Television Systems Technician
Carpentry
Carpet Cleaning
Carpet Leasing
Caterer
Catering and Food Service Equipment
Computer Equipment/Maintenance
Computer Software Development
Computer Supplies
Copiers
Courier/Messenger Services
Electrical Supplies
Electrician
Energy Management
Environmental Impact Studies

Cont. 2 – Attachment B

Fencing
Fire Supply/Equipment
Floral Arrangements Decorator
Food Service Equipment Repair
Fuel Oil Company
General Construction
General Maintenance
Generator Repairs & Supplies
Grounds Maintenance
HVAC Service/Maintenance
Insurance Agent
Interior Design
Janitorial Services and Supplies
Landscaping
Legal Services
Lighting
Locksmith
Minority/Women-Owned Banks
Motor Parts & Repairs
Moving Company
Office Equipment Lease/Purchase Maintenance
Office Furniture Lease/Purchase
Office Supplies
Paint Supplies
Paper Products (Janitorial)
Parking Management
Pest Control Firm
Plant Maintenance
Plumber
Pre-Construction and Post Construction Activities
Preventative Maintenance
Printing
Printing Services, Blueprints, Brochures, etc.
Public Relations Services
Recycling Programs
Roofing Repairs
Security Guard Company
Security Services/Systems
Signage
Site Improvements/preparation
Snow Removal Firm
Sound Systems Technician
Sprinkler Systems
Telecommunications Support Service

Cont. 3 – Attachment C

Telephone System Technician
Temp Help Agency
Tools/Purchases & Rentals
Towing Company
Trash Removal
Uniform Rental Firm
Vending Equipment and Supplies
Water Removal
Water Treatment
Water Treatment
Window Repairs & Supplies
Window Washing

FORM LBOC – 003C